CITY OF
Fremont

City Council Chambers
3300 Capitol Avenue
Fremont, California

City Council

Bob Wasserman, Mayor

Suzanne Lee Chan, Vice Mayor

Anu Natarajan

Bill Harrison

Dominic Dutra

City Staff

Fred Diaz, City Manager

Harvey E. Levine, City Attorney

Mark Danaj, Assistant City Manager

Dawn G. Abrahamson, City Clerk

Robert Beyer, Interim Community Dev. Director

Harriet Commons, Finance Director

Marilyn Crane, Information Technology Svcs. Dir.

Mary Kaye Fisher, Interim Human Resources Dir.

Annabell Holland, Community Services Director

Norm Hughes, City Engineer

Bruce Martin, Fire Chief

Jim Pierson, Public Works Director

Jeff Schwob, Planning Director

Suzanne Shenfil, Human Services Director

Craig Steckler, Chief of Police

Lori Taylor, Economic Development Director

Elisa Tierney, Redevelopment Director

City Council Agenda and Report

[Redevelopment Agency of Fremont]

General Order of Business

1. Preliminary
   - Call to Order
   - Salute to the Flag
   - Roll Call
2. Consent Calendar
3. Ceremonial Items
4. Public Communications
5. Scheduled Items
   - Public Hearings
   - Appeals
   - Reports from Commissions, Boards and Committees
6. Report from City Attorney
7. Other Business
8. Council Communications
9. Adjournment

Order of Discussion

Generally, the order of discussion after introduction of an item by the Mayor will include comments and information by staff followed by City Council questions and inquiries. The applicant, or their authorized representative, or interested citizens, may then speak on the item; each speaker may only speak once to each item. At the close of public discussion, the item will be considered by the City Council and action taken. Items on the agenda may be moved from the order listed.

Consent Calendar

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which case the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address the City Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.

See Reverse

Addressing the Council

Any person may speak once on any item under discussion by the City Council after receiving recognition by the Mayor. Speaker cards will be available prior to and during the meeting. To address City Council, a card must be submitted to the City Clerk indicating name, address and the number of the item upon which a person wishes to speak. When addressing the City Council, please walk to the lectern located in front of the City Council. State your name. In order to ensure all persons have the opportunity to speak, a time limit will be set by the Mayor for each speaker (see instructions on speaker card). In the interest of time, each speaker may only speak once on each individual agenda item; please limit your comments to new material; do not repeat what a prior speaker has said.

Oral Communications

Any person desiring to speak on a matter which is not scheduled on this agenda may do so under the Oral Communications section of Public Communications. Please submit your speaker card to the City Clerk prior to the commencement of Oral Communications. **Only those who have submitted cards prior to the beginning of Oral Communications will be permitted to speak**. Please be aware the California Government Code prohibits the City Council from taking any immediate action on an item which does not appear on the agenda, unless the item meets stringent statutory requirements. The Mayor will limit the length of your presentation (see instructions on speaker card) and each speaker may only speak once on each agenda item.

To leave a voice message for all Councilmembers and the Mayor simultaneously, dial 284-4080.

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Information

Copies of the Agenda and Report are available in the lobbies of the Fremont City Hall, 3300 Capitol Avenue and the Development Services Center, 39550 Liberty Street, on Friday preceding a regularly scheduled City Council meeting. Supplemental documents relating to specific agenda items are available at the Office of the City Clerk.

The regular meetings of the Fremont City Council are broadcast on Cable Television Channel 27 and can be seen via webcast on our website (www.Fremont.gov).

Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 2 working days in advance of the meeting by contacting the City Clerk at (510) 284-4060. Council meetings are *open captioned* for the deaf in the Council Chambers and *closed captioned* for home viewing.

Availability of Public Records

All disclosable public records relating to an open session item on this agenda that are distributed by the City to all or a majority of the City Council less than 72 hours prior to the meeting will be available for public inspection in specifically labeled binders located in the lobby of Fremont City Hall, 3300 Capitol Avenue during normal business hours, at the time the records are distributed to the City Council.

Information about the City or items scheduled on the Agenda and Report may be referred to:

Address: City Clerk
City of Fremont
3300 Capitol Avenue, Bldg. A
Fremont, California 94538
Telephone: (510) 284-4060

Your interest in the conduct of your City's business is appreciated.

AGENDA
FREMONT CITY COUNCIL REGULAR MEETING
MARCH 1, 2011
COUNCIL CHAMBERS, 3300 CAPITOL AVE., BUILDING A
7:00 P.M.

1. PRELIMINARY

1.1 Call to Order

1.2 Salute the Flag

1.3 Roll Call

1.4 Announcements by Mayor / City Manager

2. CONSENT CALENDAR

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which event the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.

2.1 Motion to Waive Further Reading of Proposed Ordinances
(This permits reading the title only in lieu of reciting the entire text.)

2.2 Approval of Minutes – None.

3. CEREMONIAL ITEMS

3.1 Resolution of Council Intent to Improve Iron Horse Lane and Extending Appreciation to Alan Heyman

4. PUBLIC COMMUNICATIONS

4.1 Oral and Written Communications

REDEVELOPMENT AGENCY – None.

PUBLIC FINANCING AUTHORITY – None

CONSIDERATION OF ITEMS REMOVED FROM CONSENT CALENDAR

5. SCHEDULED ITEMS – None.

6. REPORT FROM CITY ATTORNEY

6.1 Report Out from Closed Session of Any Final Action

7. OTHER BUSINESS

7.1 UPDATE ON SOUTH FREMONT/WARM SPRINGS AREA STUDIES
Receive Update on South Fremont/Warm Springs Area Studies

Contact Person:

Name:	Jeff Schwob	Lori Taylor
Title:	Planning Director	Director
Dept.:	Community Development	Economic Development
Phone:	510-494-4527	510-284-4020
E-Mail:	jschwob@fremont.gov	ltaylor@fremont.gov

RECOMMENDATION: Receive update and provide direction to staff.

7.2 FISCAL YEAR 2011/12 BUDGET BALANCING STRATEGIES AND LABOR RELATIONS GUIDELINES
Consideration of FY 2011/12 Budget Balancing Strategies and Labor Relations Guidelines

Contact Person:

Name:	Harriet Commons	Mark Danaj
Title:	Director	Assistant City Manager
Dept.:	Finance	City Manager's Office
Phone:	510-284-4010	510-284-4005
E-Mail:	hcommons@fremont.gov	Mdanaj@fremont.gov

RECOMMENDATION: Adopt the budget strategies and guiding principles for labor negotiations outlined in this report and direct staff to pursue ongoing budgetary solutions that are representative of these strategies and guidelines in developing the fiscal year 2011/12 budget.

8. COUNCIL COMMUNICATIONS

8.1 Council Referrals – None.

8.2 Oral Reports on Meetings and Events

9. ADJOURNMENT

REPORT SECTION
FREMONT CITY COUNCIL
REGULAR MEETING

MARCH 1, 2011

6.1 Report Out from Closed Session of Any Final Action

7.1 UPDATE ON SOUTH FREMONT/WARM SPRINGS AREA STUDIES
Receive Update on South Fremont/Warm Springs Area Studies

Contact Person:

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Phone:	510-494-4527	510-284-4020
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Executive Summary: In mid-December 2010, staff presented three land use concepts for Council consideration for the 850-acre South Fremont/Warm Springs Study Area. This study area includes the Tesla factory and surrounding large vacant parcels, as well as lands surrounding the planned Warm Springs BART Station. Two of the land use concepts included a range of residential densities from 20 to 70 units per acre, potentially resulting in 2,000 to 2,500 units. Some of these residential uses were planned for the vacant 107-acre parcel located directly north of the Tesla factory. Other residential uses were planned east of the railroad tracks in proximity to the planned BART station in an effort to foster transit oriented development (TOD). In early January, staff learned that Union Pacific Railroad (UPRR) purchased 167 acres of vacant land (formerly owned by NUMMI north and south of the Tesla factory) to provide freight rail services for their customers. This property purchase could have significant impacts on the long term land uses for the area and has necessitated a pause in the efforts to complete the South Fremont/Warm Springs Area Studies. Tonight's discussion will provide an introduction to Union Pacific, as well as discussion of an approach to complete the studies.

DISCUSSION/ANALYSIS: Since the December meeting, City consultants have completed the White Paper, and are near completion on the Land Use Alternatives and Economic and Market Strategic Plan. The Infrastructure and Cost Analyses and Financial Assessment were scheduled to begin in January; however, they have been temporarily paused while staff learns more about the UPRR's intended use of these 167 acres and its subsequent implication on City land use planning in this area.

Because the railroad is exempt from local government land use regulations, staff has begun conversations with UPRR to understand their intended use of these lands, as well as the implications on the City's planning process for the area. During a January 21 meeting with UPRR, staff learned that it is likely these sites would be used for freight rail of agricultural products or for automobile marshalling. Since two of the three land use concepts envisioned include residential uses, staff finds it prudent that the City better understand the breadth of compatibility issues and constraints of expanded rail uses on the Union Pacific parcels to determine if residential development is viable from an air quality perspective.

To provide this understanding, air quality studies are underway and will be complete by late March to inform refinement of the land use alternatives. Once the study results are known, staff will be able to determine if residential uses are feasible in proximity to the future rail area. In addition, after completion of the air quality studies, review of hazardous material operations in the area may be required to further ensure that any proposed land use scenario is feasible given existing constraints in the area.

Tonight's discussion will focus on the potential implications of the purchase of the two large and vacant former NUMMI-owned parcels by UPRR, including a dialogue with representatives from Union Pacific. Staff will also discuss the next steps of the EDA Studies, including the refinement of the land use alternatives and the timing of the completion of the reports.

FISCAL IMPACT: The federal Economic Development Administration (EDA) grant of $333,000 is anticipated to cover the costs for consultants to prepare these studies. The City's required match of $83,250 is being met entirely though the use of City staff time incurred in processing the grant and oversight of the related technical studies, and has been funded with an appropriation from the 501 Capital Improvement fund's fund balance to 501PWC8735, NUMMI Site Reuse & Revitalization Project.

ENVIRONMENTAL REVIEW: There is no project or other action related to this staff report that triggers provisions of the California Environmental Quality Act (CEQA). Therefore, no CEQA determination is required.

ENCLOSURE: None.

RECOMMENDATION: Receive update and provide direction to staff.

7.2 FISCAL YEAR 2011/12 BUDGET BALANCING STRATEGIES AND LABOR RELATIONS GUIDELINES

Consideration of FY 2011/12 Budget Balancing Strategies and Labor Relations Guidelines

Contact Person:

Name:	Harriet Commons	Mark Danaj
Title:	Director	Assistant City Manager
Dept.:	Finance	City Manager's Office
Phone:	510-284-4010	510-284-4005
E-Mail:	hcommons@fremont.gov	Mdanaj@fremont.gov

Executive Summary: The fiscal year 2011/12 budget process presents a uniquely challenging environment for the organization and community. A slow and anemic economic recovery from the Great Recession, coupled with increasing personnel costs, has resulted in a persistent General Fund deficit. The bridging strategies used to balance the budget the last several years, such as strategic reductions in service levels and the cautious use of reserves, have positioned Fremont better than most cities in the Bay Area. However, given the length of the economic recovery, and rising employee costs, these actions have not been enough to address the structural imbalance in the General Fund. The City's need for long-term structural budget change requires a fresh look at the City's cost structures, methods of service delivery, portfolio of services offered and ability to generate revenue. This will require courageous conversations on the future of City services and the manner by which those services are provided. The purpose of this report is to begin those conversations in earnest and provide a foundation for pursuing strategies that will result in a more sustainable fiscal position.

BACKGROUND: The State of California has a long history of raiding local government coffers to help it balance its budget in times of economic downturn and fiscal stress. Fremont experienced a significant budget challenge in the early 1990s when, in response to the severe recession at that time, a significant reduction in property tax revenue occurred. In order to fulfill its funding requirement to schools under Proposition 98, the State permanently took property taxes from local government twice on an ongoing basis to fund its Education Revenue Augmentation Fund (ERAF). These two actions are often referred to as ERAF I and II, and they continue to this day. For the City of Fremont, the amount of this loss has grown to $14,345,000 annually, for a cumulative property tax loss of $172.6 million since 1992. Although there have been some modest offsets for this loss from the State, in the form of Proposition 172 and COPS funding, the cumulative loss is still $153.7 million after taking these offsets into account.

As the organization attempted to deal with these significant and unanticipated revenue losses, difficult budget cuts were made, and negotiations with employees resulted in their starting to pay their own employee contribution to the California Public Employees' Retirement System (CalPERS). Prior to that, Fremont (like most other cities) paid both the employer and employee contributions. Beginning in 1994, all employees began paying their employee contribution, resulting in a 7% budget savings for non-sworn (miscellaneous) employees and a 9% budget savings for sworn public safety employees.

The need for a change in the status quo was also identified. This was at the same time that *Reinventing Government* had just been published, and the time was ripe for looking at different ways to do business and deliver services to the community. Organizational “reinvention” was made all the easier by the beginning of the technology (“dot-com”) boom. With its location in Silicon Valley and significant business-to-business sales tax base, economic recovery came roaring back to Fremont in the late 1990s. Sales tax revenues increased at rates few could have imagined. Staff and Council realized this revenue growth rate could not be sustained for the long-term, and efforts were made to not commit one-time revenues to ongoing costs. Instead, the Council formally adopted its reserve policies for the General Fund in 1996, and a significant portion of these increased revenues were also committed to major capital needs, one example being significant street maintenance projects. During this time, some strides were made in reducing the backlog of deferred maintenance, with the result that the City’s pavement condition index rose to 79. (Unfortunately, it has since declined, currently standing at 62.)

Fremont was not the only beneficiary of the growing economy. The State’s revenues were likewise increasing by leaps and bounds, and during the late 1990s, continued revenue growth was predicted. Income tax revenues account for over half of the State’s income. During the dot-com boom, these revenues increased dramatically because of income taxes derived from business income and capital gains (most notably, stock options). These two revenue sources are much more volatile than wage and salary income. The top 1% of income earners accounted for just over 30% of State income tax revenues in the early 1990s. This grew to nearly 50% in 2000, at the height of the tech boom.

The CalPERS investment portfolio also grew substantially, resulting in a number of agencies being “super funded” (meaning there were enough plan assets available so that neither employer nor employee contributions would be required for the remaining life of the plan). It was during this time that many employer rates (including Fremont’s) dropped to zero or close to it (although Fremont was never in the “super funded” category).

The effect of the “hot” economy was two-fold. First, it became increasingly difficult to hire and retain good employees. The competition was coming not only from other public sector employers, but from the private sector, which lured job applicants with promises of stock options, compensation packages and perks the public sector couldn’t match, and the allure of potential wealth should an initial public offering (IPO) of a start-up company’s stock be successful. The City – and all public employers – was in a competition for the best and the brightest, not only with each other, but with the private sector, as well.

The second effect was pressure at the State level on the Legislature and CalPERS to enhance retirement benefits. Employee bargaining groups saw the significant amounts of money available at CalPERS, and they wanted to be able to access those supposed “surpluses” to provide their members with better retirement benefits. The flaw in this perception of “surplus” is that it was based on actuarial assumptions used for the existing benefit level – it was really not “surplus.” Undeterred by actuarial reality, the Legislature passed legislation, which the Governor signed, to provide enhanced retirement benefit formulas, subject to negotiation at the local level.

Fremont, like most other cities, faced much pressure from employees to implement these new benefit formulas. This pressure was exacerbated by CalPERS staff telling employees and their bargaining units that these new benefit formulas were “no cost” options. Facing both employee pressure and competitive pressure, the City negotiated with its employee bargaining groups, reaching agreement to enhance the sworn public safety retirement benefit formula from 2% at 50 to 3% at 50 in 2001, and the non-sworn (miscellaneous) retirement benefit formula from 2% at 55 to 2.5% at 55 in 2002. Unlike many other entities, in Fremont, both retirement benefit upgrades provided for some level of cost-sharing by the affected employees (generally in the form of foregone compensation increases). In addition, the employee contribution rate for non-sworn employees increased permanently from 7% of compensation to 8%. The resulting new labor agreements were for an unprecedented seven years. At the time of their ratification, the longer term of these agreements was considered to be an effective way to mitigate exposure to significant future salary increases, because they provided for future salary increases at rates below that in the existing market.

Then, in late 2002, the dot-com bust hit. At the time, it was often referred to as "the perfect storm." Sales tax revenues dropped suddenly and significantly, CalPERS employer rates shot up dramatically because of investment losses, and the State once again looked to local government to help balance its budget (through one-time diversions of property tax, amounting to $10 million for Fremont, often referred to as ERAF III and IV). Once again, in 2002/03, the City acted quickly to resolve its budget challenges and evaluate the type and nature of services it delivers.

One thing the City was not able to accomplish was labor concessions because of the existing labor agreements. What had once been viewed as an effective budget management strategy soon became an obstacle to balancing the budget. As a result, other difficult courses of action were pursued, including the elimination of 165 regular positions and 59 temporary positions, the outsourcing of fire dispatch services to a regional fire dispatch consortium, elimination of evening meals at the Senior Center, a reduction in grants to local non-profit social services groups, the elimination of City-paid extra hours at the Alameda County Fremont Main Library and local branches, reduction of most support for community special events, including funding of the Fremont Symphony Orchestra, closure of the Development Services Center counter half a day per week, and elimination of the City's traffic calming program. Public safety departments took budget reductions of 10% and non-public safety departments reduced their budgets by 20-30%.

It appeared the worst was past and recovery returned in the mid-2000s – that was, until the subprime mortgage melt-down began in 2007. In September 2008, with the collapse of Lehman Brothers, Fremont, along with the rest of the country and, in fact, the world, was plunged into the longest, deepest recession since the Great Depression. What had started out looking to economists as a bit of an economic blip – a market correction – became the bursting of the housing bubble. Fremont began ratcheting back spending in 2007, made further cuts in 2008, and in 2009 again significantly reduced the work force, as well as successfully negotiating with employee bargaining groups for wage concessions. In order to balance the FY 2009/10 budget, public safety departments reduced their budgets by 5%, and all other departments reduced their budgets by 10-20%. In addition, 74 regular positions and 29 temporary positions were eliminated. The overall cumulative effect of these position eliminations reduced the authorized staff complement from 1032.35 full-time equivalent (FTE) positions in FY 2002/03 to the current level of 848.485 FTE positions in FY 2010/11, an 18% reduction.

Now, as the City is half-way through FY 2010/11 and looking ahead to FY 2011/12, staff is cautiously encouraged by indicators that the worst may be over economically. Economists are no longer talking about the possibility of a "double dip" recession – although they generally agree that the recovery will be a long, slow one. Typically, local government revenues lag both economic downturn and economic recovery over the course of the business cycle. This gap between the change in economic conditions and local agency revenue collections can last from 18 months to several years. The Joint Venture

Silicon Valley (JVSV) *2011 Index of Silicon Valley* indicates local government recovery from the current recession will likely experience an even greater lag than has been the case over the course of previous recessions. In addition to the high unemployment rate, it will take some time for the housing market to recover. Further, the blow to the financial markets has resulted in lost value in public retirement funds, which now have fewer resources to meet growing obligations. This results in increased employer contributions into the retirement funds to meet those obligations.

Property tax appears to be stable, and sales tax seems to be ticking up a bit, just as staff anticipated when the FY 2010/11 budget was adopted. What was not fully anticipated at that time was the significant CalPERS rate increases looming in FY 2011/12 and beyond. These increases are the result of significant investment portfolio losses at CalPERS, a change in demographic assumptions to reflect retirees generally living longer (and, thus, collecting benefits for a longer period), and a potential change in the CalPERS investment earnings assumption (from 7.75% to 7.5%). Because CalPERS "smoothes" investment portfolio gains and losses over 15 years, the current high rates will likely reach a peak over the next 3 years or so and then level off at that high rate for the foreseeable future. (This practice of smoothing over such an extended period of time was implemented at the behest of local agencies when they were reeling from significant rate spikes in FY 2002/03. At that time, local agencies requested more predictability and less volatility in employer rates, and the CalPERS Board agreed to make that change.)

<u>FY 2010/11 Update and FY 2011/12 Projection</u>
The mid-year revenue estimate for the General Fund, at $128,657,000, is unchanged from the first quarter update presented to Council in November 2011. Property tax revenues appear to be coming in as expected. Staff is still awaiting sales tax information for the holiday quarter, which should be available in late March. Together, these two revenue sources account for 66% of the General Fund's FY 2010/11 resources. The total revenue growth assumption of 2% in FY 2010/11 appears to be holding.

On the expenditure side, staff is working with departments on year-end estimates, and departmental expenditures currently appear to be on target to be within budget. One area where savings has occurred is in the area of debt service. The majority of the City's long-term capital debt is variable rate debt. The bulk of those debt service payments have now been made, and the City continues to benefit from the extraordinarily low interest rate environment, resulting in $1.6 million in savings as compared to the adopted budget. Overall, the mid-year expenditure estimate of $132,236,000 is $2,342,000 less than the amount ($134,578,000) presented at the first quarter budget update, resulting in a budget gap for FY 2010/11 of $3,579,000 (down from $5,921,000 presented at the first quarter budget update). Again, the primary reason for this significant reduction in the budget gap is the favorable experience with the City's variable rate long-term debt. Total expenditure growth is estimated to be 1.7% in FY 2010/11.

The reduction in the FY 2010/11 budget gap means there will be $7,260,000 remaining in the Budget Uncertainty Reserve to carry into FY 2011/12. After two consecutive years of revenue declines, staff sees indications of 2% growth in FY 2010/11, and is forecasting growth rates consistent with a long, slow recovery in FY 2011/12 and FY 2012/13. Although staff will continue to refine assumptions as more economic data is received, the current overall growth assumption for revenues in FY 2011/12 is 2.5% (1.8% for total revenues and transfers in), followed by 3.4% growth in FY 2012/13 (3.3% for total revenues and transfers in).

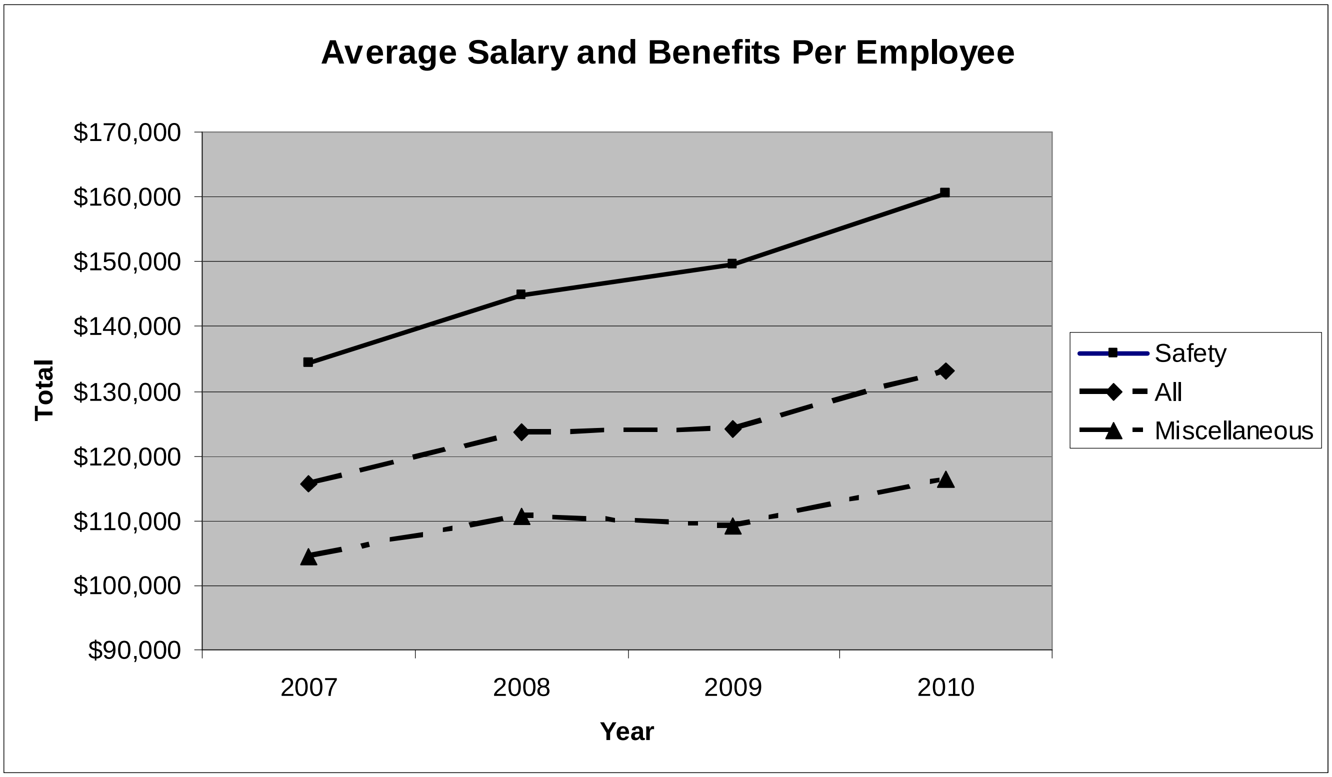
On the expenditure side, expenditures are estimated to increase by 5% in FY 2011/12, and by 2.8% in FY 2012/13. In an effort to continue to refine the expenditure forecast, staff has included an estimate for debt service savings in both years. The increase in FY 2011/12 reflects the significant increase in CalPERS employer rates as the FY 2009/10 investment losses first begin to be included in employer rates. The City's employer rate for non-sworn (miscellaneous) employees will increase from 18.360% in FY 2010/11 to 22.916% in FY 2011/12 (a 25% increase). For sworn employees, the rate will increase from 29.958% in FY 2010/11 to 36.538% in FY 2011/12 (a 22% increase). This increase in the CalPERS rate alone will add $3.5 million in costs to the FY 2011/12 operating budget ($1.6 million for sworn public safety employees, $1.9 million for all other employees). For FY 2012/13, the CalPERS rates are estimated to increase again, but not at the same rate (to 41.2% for sworn public safety employees and 25.8% for all other employees).

General Fund summary information for FY 2010/11, FY 2011/12 and FY 2012/13 is presented below:

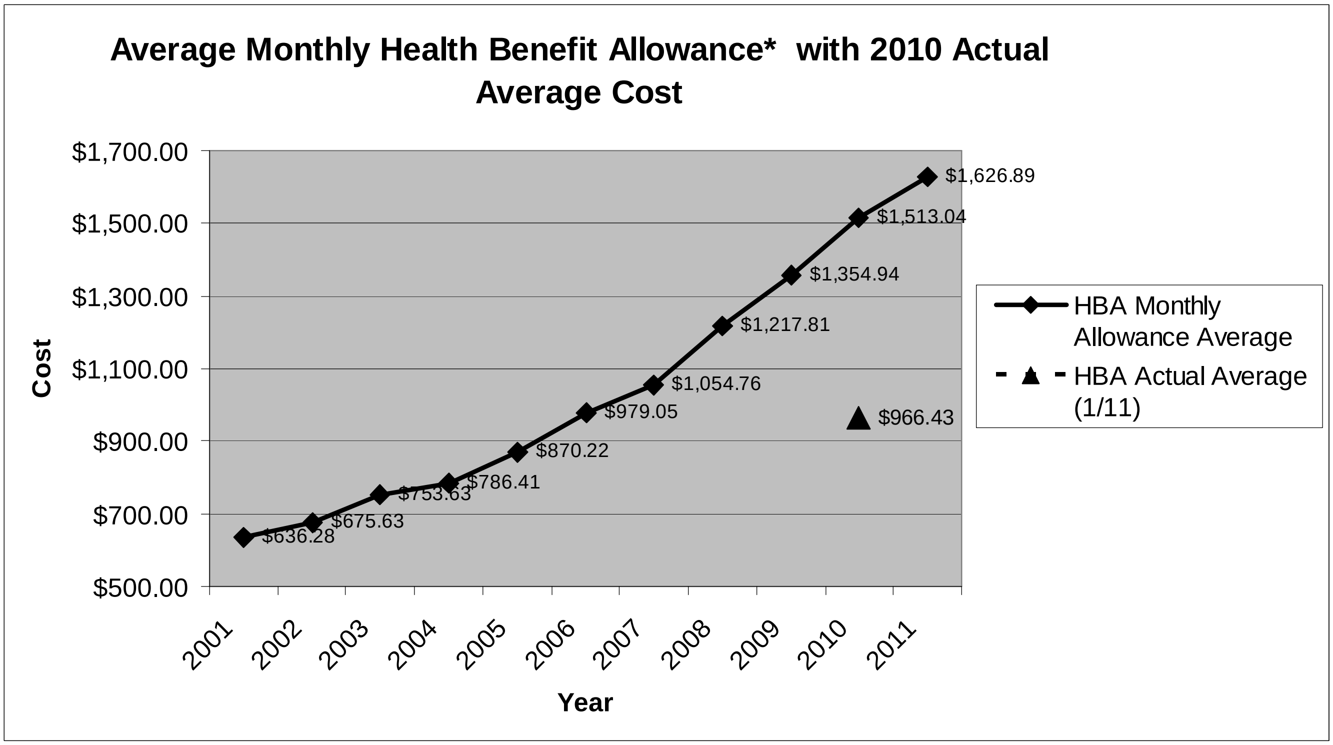
	FY 2010/11 (estimated actual)	**FY 2012/12 (projected)**	**FY 2012/13 (projected)**
Revenues	$122,304,000	$125,328,000	$129,643,000
Transfers in	6,353,000	5,653,000	5,653,000
Total resources	128,657,000	130,981,000	135,296,000
Expenditures and transfers out	132,236,000	138,821,000	142,724,000
Budget gap	($ 3,579,000)	($ 7,840,000)	($ 7,428,000)

Major Cost Drivers

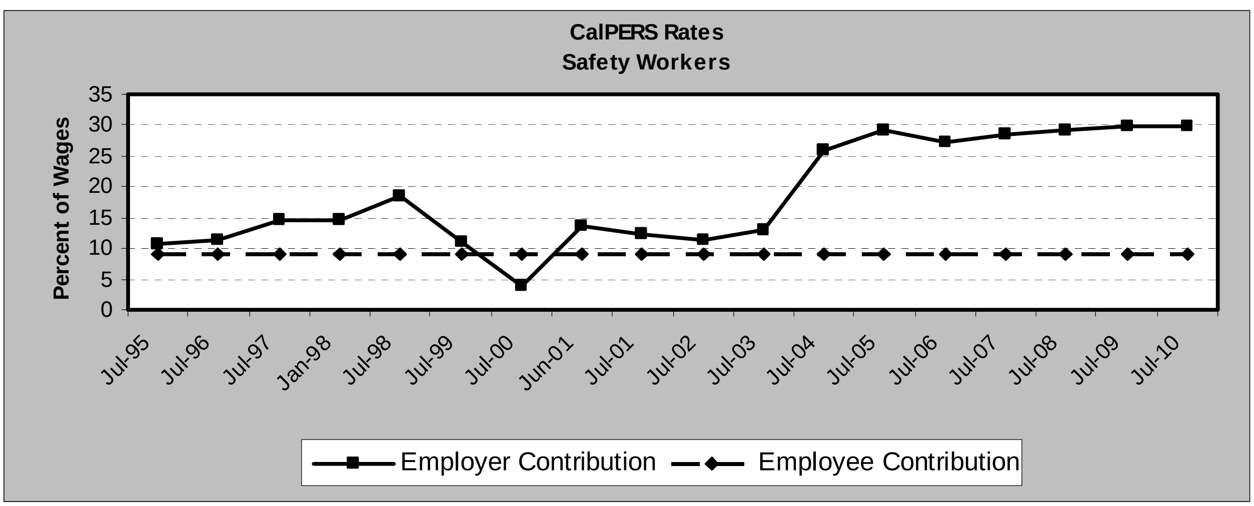
This section presents historical information about some of the major General Fund budget cost drivers. As depicted below, the average cost of City employees has continued to increase. Accounting for wages, employer-paid CalPERS costs and the health benefit allowance (HBA), the average cost of Fremont public safety employees has increased from $134,477 in 2007 to $160,427 in 2010, a 19% increase. Similarly, the average cost of miscellaneous employees has increased from $104,567 to $116,488, an 11% increase. The aggregate average cost of all City employees has increased 15% for the same period, from $115,593 to $133,210.

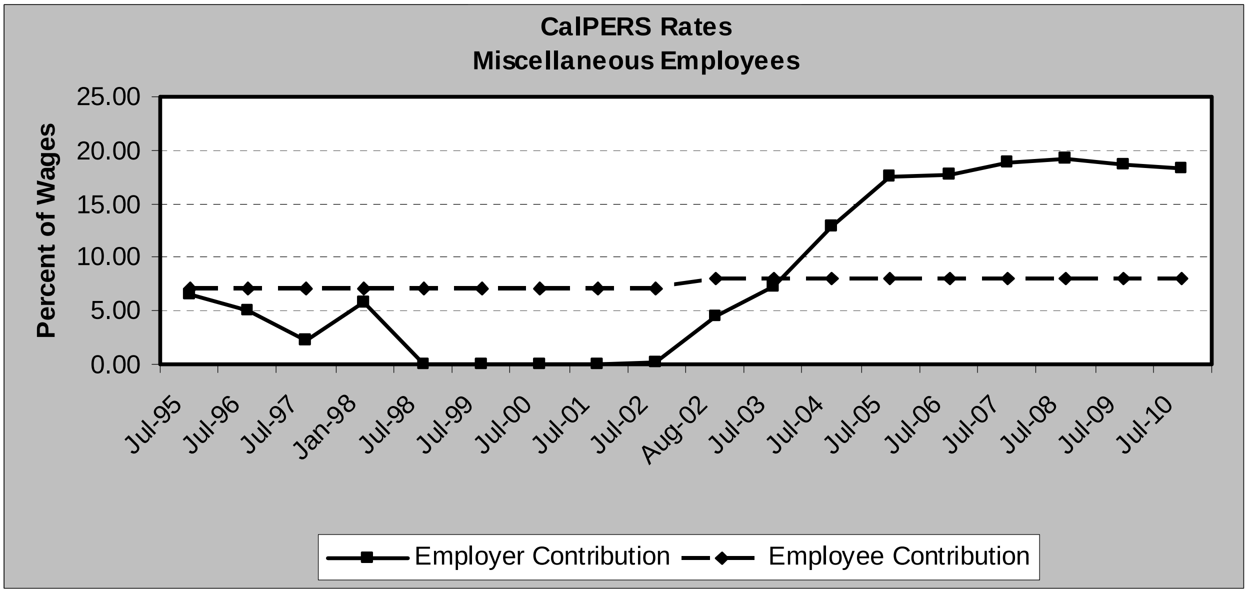


Besides CalPERS employer costs, the other significant employee benefit cost is for health care. Bargaining unit agreements provide for a health benefit allowance (HBA). This is an allowance provided to employees, from which they pay their health care premiums. Some employees do not use all of the HBA. Other employees have medical premiums that exceed the HBA, and that excess is paid by the employee. The chart below displays the average monthly HBA provided for in all bargaining unit agreements over the past ten years. The triangle shows the average monthly amount the City is actually paying for employee health care benefits in FY 2010/11.



Finally, the next two charts show the CalPERS employer and employee rates for the past 15 years. In each chart, the straight line is the employee rate [9% for sworn public safety employees, 7% for all other (miscellaneous) employees until 2002, when it increased to 8%].





DISCUSSION/ANALYSIS: Services currently performed by the City, the manner in which they are performed, and the methods used to compensate employees for that work are a reflection of past practices. These practices evolved from a combination of the fiscal times in which they were adopted, past competitive labor markets and different economic assumptions. While these practices were appropriate in the context of time in which they were adopted, negotiated or approved, they are no longer aligned to the current fiscal environment. Given the projected General Fund deficit for the next several fiscal years, the multiple years of budget contraction, the previous utilization of reserves, and rising personnel costs, the City needs to implement long-term fixes to the budget. It is recommended that the FY 2011/12 budget process be governed by publicly-adopted budget development strategies and guiding principles for upcoming labor negotiations.

Budget Development Strategies

Major budget development strategies for solving the deficit can be grouped into four main categories:

- Reduction in overall employee compensation expenses;
- Transition to alternative service delivery models;
- Reduction or elimination of services to the community; and,
- Revenue enhancements.

Each of these categories is discussed below in a summary fashion. Undertaking any specific action will require further, thoughtful analysis prior to any implementation. Certain actions are subject to meet and confer requirements, as detailed later in this report under the guiding principles for labor negotiations section. The objective of these summaries is to introduce and provide context to the concepts or approaches.

Reduction in Overall Employee Compensation Expenses

Although employees have not received salary increases for 2 fiscal years, the City has incurred increased personnel expenses in the form of increases in employer-funded health care benefits (the HBA allowance) and the employer-funded portion of retirement contributions. The current fiscal environment requires the City to look at the total cost of employee compensation. Examples of this strategy include the following (in no particular order):

- Reducing salaries on a one-time and/or on-going basis;
- Increasing employee contributions toward retirement[1];
- Increasing employee contributions to health care benefits;
- Initiating employee wellness incentives;
- Optimizing job functions;
- Reevaluating deployment or work schedules;
- Changing MOU provisions that increase the cost of service delivery, such as overtime payments that exceed FLSA requirements; and,
- Introducing lower cost pension and healthcare plans for new employees.

Transition to Alternative Service Delivery Models
Looking at how employees currently perform their work will be necessary as options are assessed. To this end, the City will engage an experienced, public-sector-focused management consultant to assist staff in conducting a strategic sustainability study, taking a targeted look at City operations. The goal is to evaluate how key services are currently delivered, compare Fremont's operations to other municipal best practices, and recommend less costly alternatives to the City's current models. Topical areas of focus for a strategic sustainability study include the following:

- Examining key services that may be better provided through a contractual relationship with a private sector vendor, nonprofit organization or other local jurisdiction;
- Exploring shared-service models and/or consolidating services with other cities or the county;
- Reviewing opportunities for internal consolidations and efficiencies;
- Looking at employee work schedules to achieve an optimum deployment of City staff; and,
- Considering whether some work currently performed by sworn staff could be performed by non-sworn staff.

Reduction or Elimination of Services to the Community
The number and types of services the City provides will also need to be examined. To the degree that the two preceding strategies of reducing total compensation and finding alternative service delivery models cannot address the budget gap, this particular strategy will become more important.

Since FY 2002/03, the City has been reducing expenditures and downsizing the organization to keep pace with the reduction in revenues, primarily due to the Silicon Valley business slump and then the Great Recession. In doing so, it has tried to preserve, as best it could, police, fire, and maintenance services, which together account for 92% of General Fund expenditures. The City has made major changes to operations, closed or browned-out fire stations, closed the fire dispatch center and moved to a regional center, reduced police special units and focused on patrol and investigations, reduced crime lab

[1] City of Fremont employees already contribute 8% and 9%, miscellaneous and public safety respectively, of their wages toward employee retirement costs.

operations, stopped funding extra library hours, eliminated approximately 300 positions, furloughed employees, and generally reduced costs citywide.

The organization is lean and has one of the lowest employee per 1,000 residents staffing ratios in the Bay Area. A simple cookie-cutter percentage reduction to services will no be effective. Council will need to consider program and service elimination.

As noted earlier in the background section, the average cost of employees has continued to grow. The chart below shows the average cost per employee, separated into public safety, miscellaneous, and a combined average. The FY 2011/12 projected deficit of $7.8 million for next fiscal year equates to over 58 positions that would need to be eliminated to balance the budget through the implementation of this strategy alone, using the 2010 combined average cost of all City employees.

$$\frac{\text{\$7.8 Million FY 2011/2012 Deficit}}{\text{Average Cost of All Employees of \$133,210}} = \text{58 FTE}$$

Average Cost of City Employees				
	2007	***2008***	***2009***	***2010***
Safety	$134,477	$144,797	$149,647	$160,427
Miscellaneous	$104,567	$110,692	$109,211	$116,488
All Employees	$115,593	$123,555	$124,244	***$133,210***

Revenue Enhancements
A final, but important, strategy to consider is looking for opportunities to enhance revenue generation for the City. Although many of these options may not be achievable by the time of budget adoption, they may be worthy of consideration given the current fiscal environment. These options could include continuing aggressive economic development efforts currently underway, implementing full cost recovery for more programs, increasing rates for City facilities to be closer to market rates, and evaluating the existing fee and tax structures for relative competiveness to other Bay Area large cities. Any consideration of revenue enhancements would likely require both prior action on the three preceding strategies and significant public outreach to prepare for the applicable ballot initiatives.

Labor Relations and Guiding Principles for Upcoming Labor Negotiations
The City greatly values its employees and the services they provide to the community. Notwithstanding, current economic reality requires a hard look at existing compensation structures. Prior to considering key guidelines for upcoming labor negotiations, it may be helpful to review the labor relations environment. The following section is intended to provide a general description of the governing laws that define labor relations at the local government level.

Meyers-Milias-Brown Act (MMBA)
The MMBA governs labor-management relations in California local government, including cities, counties, and most special districts. The MMBA provides the right to organize, sets guidelines for such things as the scope of representation, and establishes the requirement to meet and confer in good faith.

The MMBA states that the governing body of a public agency shall meet and confer in good faith regarding wages, hours and other terms and conditions of employment with representatives of recognized employee organizations (i.e., unions/bargaining units). Although it is commonly referred to as an obligation to "negotiate," the MMBA refers to the obligation to "meet and confer" in good faith. The MMBA defines meeting and conferring in good faith as having the mutual obligation to personally meet and confer promptly upon request by either party and continue for a reasonable period of time in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement on matters within the scope of representation.

The MMBA defines the scope of representation as all matters related to employment conditions and employer-employee relations, including, but not limited to, wages, hours and other terms and conditions of employment, except, however, that the scope of representation shall not include consideration of the merits, necessity, or organization of any service or activity provided by law or executive order.

City Resolution #9697 – City of Fremont's Employer-Employee Relations Resolution (EERR)
In accordance with the MMBA, the City adopted an Employer-Employee Relations Resolution, the purpose of which is to provide orderly procedures for the City's administration of employer-employee relations between the City and its employee organizations and for resolving disputes regarding wages, hours, and other terms and conditions of employment. The Resolution provides definitions specific to the City of Fremont, sets out both employees' rights and the City's rights, and provides timely guidelines for certain procedures. It also describes the manner in which employee organizations can be certified or decertified as an exclusive organization representing certain employees, and the procedure for amending, adding or deleting classifications.

Negotiation/"Meet and Confer" Process
As mentioned above, under the MMBA and the City's EERR, the City has an obligation to meet and confer in good faith with the City's bargaining units regarding wages, hours and other terms and conditions of employment in an effort to reach agreement on those matters. It does not require either party to agree to a proposal or to make a concession. The negotiations for a new agreement commence prior to the expiration of an existing Memorandum of Understanding (MOU). The City and the bargaining unit each establish a negotiating team. The City provides paid release time for bargaining unit team members for time spent during the negotiation meetings that coincide with the employees' normal work hours.

During the negotiations, the City team meets with the bargaining unit team to discuss various issues and interests for the new MOU. The City's negotiating team is provided negotiation authorization by the City Council through the City Manager. Proposals are exchanged related to the issues presented during the negotiations. Tentative agreements are often reached on individual issues as part of the negotiation process and, ultimately, a tentative agreement is reached on the entire contract. All tentative agreements are contingent upon ratification of the bargaining unit membership and approval of the City Council in open session.

Bona Fide Impasse
As defined in both the MMBA and the City's EERR, impasse means a deadlock in the meeting and conferring process between a majority representative and the City over any matters concerning which

they are required to meet and confer in good faith, and where their differences on matters remain so substantial and prolonged that further meeting and conferring would be futile.

Impasse procedures may be invoked only after the possibility of settlement by direct discussion has been exhausted. Impasse meetings and mediation procedures are outlined in the EERR.

City Council Determination

If mediation does not result in agreement, the City Council makes the final determination, after conducting an open session hearing on the merits of the dispute, unless otherwise provided under State law.

Imposition

It is the goal of both parties to reach a negotiated agreement. However, the MMBA states that a public agency may, after impasse procedures have been exhausted, implement its last, best, and final written offer. The unilateral implementation of a public agency's last, best, and final offer does not deprive a recognized employee organization of the right each year to meet and confer on matters within the scope of representation.

Guiding Principles for Labor Negotiations

As the chart below shows, all nine City employee groups have MOUs that are due to expire at the end of June 2011. This presents timing challenges insofar as reaching agreements and understanding their implications for the proposed budget for next fiscal year. However, the simultaneous expiration of the MOUs also provides an opportunity for the City to ensure that all its labor groups are treated uniformly with across-the-board fairness.

Bargaining Unit	FTE*	Expiration
FACE	210.17	6/30/2011
FAME	80.70	6/30/2011
FAME Safety	14.00	6/30/2011
Police	164.00	6/30/2011
Fire	118.00	6/30/2011
Fire - Battalion Chief	6.00	6/30/2011
Operating Engineers	92.00	6/30/2011
PETA	22.63	6/30/2011
Teamsters	56.00	6/30/2011
Grand Total	763.50	

***** Budgeted filled represented positions. Total budgeted positions for FY 2010/11 are 848.485 FTE. In addition, there are 26 positions that are not represented by employee bargaining units.

Given the recommended strategies for addressing the FY 2011/12 projected deficit, the context of local labor relations requirements and the expiration of all labor contracts, it is recommended that the Council adopt the following labor relations guidelines in order to better clarify the Council's intent:

1. Focus on the cost of total compensation while considering the City’s fiscal condition and revenue projections;
2. Use short-term and long-term strategies to curtail escalating benefit costs, such as wellness programs and other cost containment initiatives;
3. Maintain a consistent approach to bargaining through clear, ongoing communication of policy direction set by the City Council;
4. Remain mindful of other increasing costs, including the retiree healthcare liability;
5. To the extent possible, preserve the City’s ability to be a competitive employer in the local labor market; and,
6. Explore new service delivery models that align with both the priorities of the community and the City Council and result in operational efficiencies.

FISCAL IMPACT: A slow and anemic economic recovery from the Great Recession, coupled with increasing personnel costs, has resulted in a persistent General Fund deficit. The bridging strategies employed to balance the budget the last several years have positioned Fremont better than most cities in the Bay Area. However, given the length of the economic recovery, and rising employee costs, these actions have not been enough to address the structural imbalance in the General Fund. The City’s need for long-term structural budget change requires a fresh look at the City’s cost structures, methods of service delivery, portfolio of services offered and ability to generate revenue.

The current budget projections assume no growth in employee salary and benefits (other than increases in CalPERS employer contributions, which are non-negotiable with CalPERS). There are also no assumed contributions to the Capital Improvement Program (CIP), which is currently using existing balances to fund projects. Prior to FY 2009/10, the General Fund contributed $1 million annually to the CIP, almost all of which was programmed for major maintenance projects. There have been no contributions since FY 2008/09 and, in fact, money has been transferred out of the CIP in FY 2009/10 and FY 2010/11 to help fund General Fund operating costs. This will result in a deterioration of City assets over time, and ultimately increased costs to replace them, as opposed to repairing and maintaining them. One impact of deferred maintenance can be seen in the City’s decreasing pavement condition index (from 79 in the early 2000s to 62 now).

Another significant cost the City has is its unfunded liability for retiree medical costs. Like most cities, Fremont accounts for this liability on a pay-as-you-go basis (currently about $2.2 million annually). Before the onset of the Great Recession, there was an attempt to begin to set money aside to begin funding that unfunded liability, but the economic downturn resulted in placing that attempt on hold. The current unfunded liability stands at $70 million. In order to begin to fund this obligation and amortize the unfunded liability over time, the City’s independent consulting actuary has calculated that the City should be setting aside roughly 9.4% of payroll. There is currently no provision in the budget – or ability – to begin funding this liability on an actuarial basis.

The City’s debt ratings from Standard & Poor’s (S&P) are periodically reviewed by S&P. In the last rating review in December 2010, S&P reaffirmed the City’s AA rating on its certificates of participation (COPs) and the AA+ rating on its general obligation bonds. However, S&P changed its outlook from “stable” to “negative.” The S&P ratings report states the following:

> The negative outlook reflects Standard & Poor's view of the budgetary pressures facing the city to improve its structural imbalance and preserve its strong, but deteriorating, reserve position. While we believe the city has adequate reserves to withstand near-term challenges, over the next two years we may lower the ratings should the city's budget gap worsen and if unreserved fund balances do not remain commensurate with peers within the rating category. Conversely, we may revise the outlook to stable if the city is able to maintain or improve its reserve levels and improve the structural balance between revenues and expenditures.

This is the City's new fiscal reality, and staff and Council need to pursue strategies that will result in a more sustainable fiscal position for the long-term.

ENVIRONMENTAL REVIEW: None required**.**

ENCLOSURE: None

RECOMMENDATION: Adopt the budget strategies and guiding principles for labor negotiations outlined in this report and direct staff to pursue ongoing budgetary solutions that are representative of these strategies and guidelines in developing the fiscal year 2011/12 budget.

8.1 Council Referrals – None.

8.2 Oral Reports on Meetings and Events

ACRONYMS

ABAG .... Association of Bay Area Governments
ACCMA .... Alameda County Congestion Management Agency
ACE .... Altamont Commuter Express
ACFCD .... Alameda County Flood Control District
ACTA .... Alameda County Transportation Authority
ACTIA .... Alameda County Transportation Improvement Authority
ACWD .... Alameda County Water District
BAAQMD ..... Bay Area Air Quality Management District
BART .... Bay Area Rapid Transit District
BCDC .... Bay Conservation & Development Commission
BMPs .... Best Management Practices
BMR .... Below Market Rate
CALPERS ...... California Public Employees' Retirement System
CBD .... Central Business District
CDD………… Community Development Department
CC & R's .... Covenants, Conditions & Restrictions
CDBG .... Community Development Block Grant
CEQA .... California Environmental Quality Act
CERT .... Community Emergency Response Team
CIP .... Capital Improvement Program
CMA .... Congestion Management Agency
CNG .... Compressed Natural Gas
COF .... City of Fremont
COPPS .... Community Oriented Policing and Public Safety
CSAC .... California State Association of Counties
CTC .... California Transportation Commission
dB .... Decibel
DEIR .... Draft Environmental Impact Report
DO .... Development Organization
DU/AC .... Dwelling Units per Acre
EBRPD .... East Bay Regional Park District
EDAC .... Economic Development Advisory Commission (City)
EIR .... Environmental Impact Report (CEQA)
EIS .... Environmental Impact Statement (NEPA)
ERAF .... Education Revenue Augmentation Fund
EVAW .... Emergency Vehicle Accessway
FAR .... Floor Area Ratio
FEMA .... Federal Emergency Management Agency
FFD .... Fremont Fire Department
FMC .... Fremont Municipal Code
FPD .... Fremont Police Department
FRC .... Family Resource Center
FUSD .... Fremont Unified School District
GIS .... Geographic Information System
GPA .... General Plan Amendment
HARB .... Historical Architectural Review Board
HBA .... Home Builders Association
HRC .... Human Relations Commission
ICMA .... International City/County Management Association
JPA .... Joint Powers Authority
LLMD .... Lighting and Landscaping Maintenance District
LOCC .... League of California Cities
LOS .... Level of Service
MOU .... Memorandum of Understanding
MTC .... Metropolitan Transportation Commission
NEPA .... National Environmental Policy Act
NLC .... National League of Cities
NPDES .... National Pollutant Discharge Elimination System
NPO .... Neighborhood Preservation Ordinance
PC .... Planning Commission
PD .... Planned District
PUC .... Public Utilities Commission
PVAW .... Private Vehicle Accessway
PWC .... Public Works Contract
RDA .... Redevelopment Agency
RFP .... Request for Proposals
RFQ .... Request for Qualifications
RHNA .... Regional Housing Needs Allocation
ROP .... Regional Occupational Program
RRIDRO .... Residential Rent Increase Dispute Resolution Ordinance
RWQCB .... Regional Water Quality Control Board
SACNET .... Southern Alameda County Narcotics Enforcement Task Force
SPAA .... Site Plan and Architectural Approval
STIP .... State Transportation Improvement Program
TCRDF .... Tri-Cities Recycling and Disposal Facility
T&O .... Transportation and Operations Department
TOD .... Transit Oriented Development
TS/MRF .... Transfer Station/Materials Recovery Facility
UBC .... Uniform Building Code
USD .... Union Sanitary District
VTA .... Santa Clara Valley Transportation Authority
WMA .... Waste Management Authority
ZTA .... Zoning Text Amendment

UPCOMING MEETING AND CHANNEL 27 BROADCAST SCHEDULE				
Date	***Time***	***Meeting Type***	***Location***	***Cable Channel 27***
March 8, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
March 15, 2011	5:30 p.m.	Work Session	Council Chambers	Live
March 22, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
March 29, 2011 (5th Tuesday)		No Council Meeting		
April 5, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
April 12, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
April 19, 2011	TBD	Work Session	Council Chambers	Live
April 26, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
May 2, 2011	4-6 p.m.	Joint Council/FUSD Meeting	Council Chambers	Live
May 3, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
May 10, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
May 17, 2011	TBD	Work Session	Council Chambers	Live
May 24, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
May 31, 2011 (5th Tuesday)		No Council Meeting		
June 7, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
June 14, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
June 21, 2011	TBD	Work Session	Council Chambers	Live
June 28, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live